

AO 91 (Rev. 08/09) Criminal Complaint

FILED

UNITED STATES DISTRICT COURT
for the

Northern District of Oklahoma

JUL 13 2022
Mark C. McCarit, Clerk
U.S. DISTRICT COURT

United States of America

v.

Justin Wade Malone

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Case No.

22-mj-438-PJC

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 8, 2022 in the county of Tulsa in the Northern District of Oklahoma, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 924(c)(1)(A)(ii)	Carrying, Using, and Brandishing a Firearm During and in Relation to a Crime of Violence
18 U.S.C. §§ 1151, 1153, and 1111	Murder in the Second Degree in Indian Country

This criminal complaint is based on these facts:

See Attached Affidavit

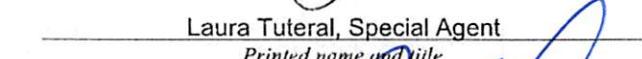
Continued on the attached sheet.

Sworn to before me and signed in my presence.

Date: 7/13/22

City and state: Tulsa, OK


Laura Tuler
Complainant's signature


Laura Tuler, Special Agent
Printed name and title


Judge's signature

United States Magistrate Judge

Printed name and title


Paul J. Cleary

AFFIDAVIT IN SUPPORT OF AN ARREST WARRANT
IN THE NORTHERN DISTRICT OF OKLAHOMA

I, Laura M. Tuterl, being first duly sworn under oath, do hereby depose and state:

INTRODUCTION AND AGENT BACKGROUND

1. I am a “federal law enforcement officer” within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C), that is, a government agent engaged in enforcing the criminal laws and duly authorized by the Attorney General to request a search warrant and make arrests.

2. Your Affiant, Laura M. Tuterl, is a Special Agent with the Federal Bureau of Investigation (FBI). I am authorized to conduct investigations into violations of Federal law including major crimes occurring on Indian Country. Your Affiant has been employed with the FBI since 2014.

3. The facts in this affidavit come from Your Affiant’s personal observations, training and experience, and information obtained from other agencies and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on Your Affiant’s training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of Title 18 United States Code, Sections 1151, 1153, 1111, Murder in the Second Degree in Indian Country, and Title 18 United States Code Section 924(c)(1)(A)(ii), Carrying, Using, and Brandishing a Firearm During and in Relation to a Crime of Violence, have been committed by **JUSTIN WADE MALONE**, DOB 12/27/1983, SSN xxx-xx-0171.

SUMMARY OF THE INVESTIGATION

5. At all times relevant to this Complaint, the subject, **JUSTIN WADE MALONE**, is a member of the Cherokee Nation.
6. That the incident occurred in Tulsa County, State of Oklahoma, within Indian Country, and specifically the historic boundaries of the Muscogee Creek Nation.
7. That sometime during the evening of July 8, 2022 by unlawfully, willfully, intentionally and feloniously, **MALONE** did cause and effect the death of one CRISTIAN AMAYA HERNANDEZ, a male with date of birth 11/12/1983. After a brief interaction, **MALONE** killed HERNANDEZ by shooting him in the head.
8. On July 8, 2022, at approximately 0640 hours, Tulsa Police Department (TPD) officers responded to a 911 call at 103 S. 108th E. Avenue, Tulsa, OK in reference to a deceased individual. The caller stated she went to check on her friend, identified as CRISTIAN AMAYA HERNANDEZ, and discovered HERNANDEZ dead with an apparent gunshot wound to the head. TPD officers found HERNANDEZ located in the front room of the household. TPD Officers pronounced HERNANDEZ dead at the scene.
9. TPD Homicide Detectives learned that the following four people were located in the residence at the time of the killing: (1) HERNANDEZ, the deceased; (2) DEVON LAROCCA, the homeowner of the residence and HERNANDEZ's girlfriend; (3) The Cooperating Witness ("CW"), who was living at the residence and located in one of the bedrooms during the time of the incident; and (4) **MALONE**, the defendant.

10. An interview with CW revealed that LAROCCA and HERNANDEZ were selling drugs out of the residence. The CW stated at approximately 0130 hours July 8, 2022, a male later identified as **MALONE** came over to the residence and entered the living room. LAROCCA and HERNANDEZ were verbally arguing during this time. CW went to his/her bedroom located on the other side of the wall from the living room. A short time later, CW stated he/she heard HERNANDEZ and **MALONE** fighting and then heard LAROCCA ask HERNANDEZ, "why do you always have your gun out?" CW then heard a gunshot. CW then heard LAROCCA and **MALONE** exit the residence. CW then heard two vehicles start. A short time later, CW stated that he/she observed LAROCCA and **MALONE** drive away in two separate vehicles. The CW then left the scene and called the police. Officers made contact with the CW at approximately 0300 hours and completed a field interview. CW stated he/she did not know the male subject's (**MALONE**) name but did observe his face. TPD homicide detectives later presented CW with a photo lineup and CW identified **MALONE** as the male he/she had observed earlier.

11. TPD Homicide detectives located LORACCA at approximately 1540 hours and transported her to the TPD Detective Division. LAROCCA admitted to being present when the shooting occurred and was able to provide information leading to the identification of **MALONE**. LAROCCA also positively identified **MALONE** as the person fighting with HERNANDEZ prior to the shooting. LAROCCA initially stated she was in the kitchen when she heard **MALONE** and HERNANDEZ fighting and heard the gunshot. LAROCCA stated **MALONE** then entered the kitchen holding a gun. LAROCCA admitted that she and **MALONE** left the scene in separate vehicles a short time after the

shooting. LAROCCA stated **MALONE** and HERNANDEZ were the only two people in the living room when the shooting occurred.

12. On July 10, 2022, TPD Homicide Detective Max Ryden and FBI Special Agent Laura M. Tuterl interviewed LAROCCA while she was in custody at David L. Moss Detention Center. After the Miranda rights warning, LAROCCA waived her rights and agreed to speak with the law enforcement officers. LAROCCA stated that HERNANDEZ attempted to pull a gun out of his pocket prior to the shooting. LAROCCA also stated she saw **MALONE** with a gun but stated she turned away to go towards the kitchen and did not see the shooting take place.

13. **MALONE** was arrested on July 8, 2022 at his residence of 336 E. 11th Street, Apt. #8, Tulsa, OK by Tulsa Police Department officers for the killing of HERNANDEZ. After the Miranda rights warning, **MALONE** confessed to shooting HERNANDEZ and admitted he brought his own gun to the residence. **MALONE** also admitted that he and LAROCCA removed video surveillance cameras from the residence after the incident. **MALONE** stated that he was high on drugs during the incident and admitted he did not call the police or medical personnel after the shooting. **MALONE** stated HERNANDEZ was armed during the incident and claimed that LAROCCA disposed of both his and HERNANDEZ's weapons after the shooting occurred. **MALONE** has a prior felony conviction for Domestic Assault and Battery.

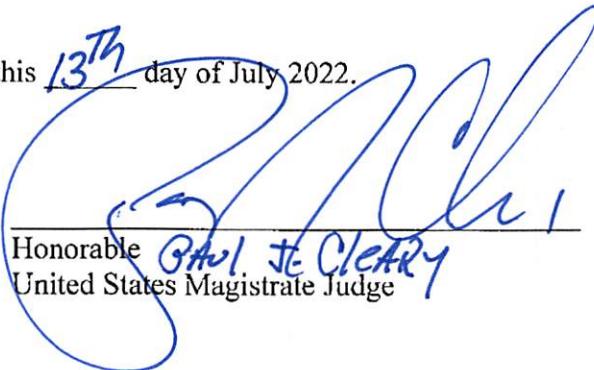
14. That the suspect is identified as **JUSTIN WADE MALONE**. He has a date of birth of 12/27/1983 and the last four of his SSN is 0171. The defendant is a confirmed member of the Cherokee Nation.

15. That the incident described above took place in the County of Tulsa Indian Country, and specifically with the historic boundaries of the Muscogee (Creek) Nation.

16. In consideration of the foregoing, I respectfully request that this court issue a Complaint and Arrest Warrant for **MALONE**, DOB 12/27/1983, SSN xxx-xx-0171.


Laura M. Tuterl,
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me this 13th day of July 2022.


Honorable Paul J. Cleary
United States Magistrate Judge